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C O N F I D E N T I A L SECTION 01 OF 02 KYIV 001117

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TAGS: [PGOV](#) [PREL](#) [UP](#)  
SUBJECT: UKRAINE: NEGOTIATIONS ON EARLY ELECTIONS STALL,  
FRUSTRATION GROWING

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Classified By: Ambassador for reasons 1.4(a,b,d).

¶1. (C) Summary. Continued disagreement over the date of elections has paralyzed what initially seemed like a breakthrough agreement on May 4 between President Yushchenko and Prime Minister Yanukovych to hold early parliamentary elections. The working group Yushchenko and Yanukovych named May 4 to finalize the details has not completed its tasks, although presidential/opposition representatives claim the "small package" of legislation is ready except for the date of the elections. Yushchenko and the opposition want elections in July, while Regions wants them in the fall. The Communists and Socialists do not want elections at all, playing a spoiler's role in working group discussions. Yushchenko's allies have accused Yanukovych of dragging out the negotiations until he forces his way on a later date for elections; on May 10 Yushchenko also fired a third Constitutional Court judge, Volodymyr Ivashchenko, the remaining Kuchma appointee on the Court. In turn, Yanukovych accused Yushchenko of sabotaging the May 4 agreement and called for European and Russian mediation. Privately, influential Deputy Prime Minister Kluyev argued to Ambassador May 10 that a Regions-OU coalition was the only outcome that would change the current stalemate.

¶2. (C) Comment. There is unlikely to be any final decision without Yanukovych, who is still in Spain recovering from elective knee surgery on May 8. However, an announcement by DPM Azarov to the press that Yanukovych should return to Kyiv on May 11 means that progress might be possible over the next few days. Speaker Moroz instructed the rump Rada (meeting without the opposition) to be on call for possible sessions on either May 12 or May 14. The date of the election hinges on constitutional and legal provisions that say early elections are held the last Sunday in a 60-day period starting when the decree calling for new elections is promulgated. Based on the May 4 agreement, Yushchenko had anticipated that the entire package would be agreed in short order, allowing elections to be held in early July. By our calculations, if agreement between the President and PM is reached and a new decree issued before May 17, then elections could technically take place on July 8. A decree on or shortly after May 17 would push an election to July 15. If dragging continues and no agreement is reached, then it is likely that a vote would be pushed to the fall, as Regions is advocating. End summary and comment.

Yushchenko Says Vote Will Move Ahead, Fires Another Judge  
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¶3. (SBU) After a May 10 meeting with the working group, Yushchenko told the press that the group was not doing its delegated job and said that he would convene an extraordinary

meeting of the National Security and Defense Council to make all necessary election-related decisions if the working group continued its "fruitless dialogue." The President and his Deputy Chief of Staff Vasyunyk have reiterated that the "small package" of legislation agreed to on May 4 was more than 80 percent finished and just awaiting a date for new elections. The President on May 10 also issued a decree dismissing Constitutional Court Judge Ivashchenko, the remaining CC judge appointed by former President Kuchma, for violating his oath of office.

¶4. (C) Comment. Ivashchenko's dismissal on the surface appeared to be an act of frustration aimed at getting the PM's attention, as the prior April 30-May 1 dismissals of judges Pshenychniy and Stanik did, although it also could have been an additional hedge against an adverse ruling, since the Court has not stopped reviewing the April 2 decree.

Interestingly, one of the other CC judges told us privately May 10 that Ivashchenko had indeed violated his oath of office by revealing information about secret deliberations, while there had not been similar grounds to fire Stanik and Pshenychniy. Amidst threats from the Rada to prepare resolutions aimed at dismissing judges on the Rada's quota, Court Chair Dombrovskiy made a public statement pleading for all sides to stop dismissals and allow the court to work. End comment.

#### Yanukovych Gets Mad, Calls For Mediators

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¶5. (SBU) In response to the firing of Ivashchenko, Yanukovych--who has been in Spain since May 8 for knee surgery and may return as early as May 11--publicly criticized Yushchenko via a CabMin press release for violating the May 4 agreement and obstructing the work of the judicial branch. He also blamed the President for being at fault for Ukraine's current political crisis. The PM then

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called on the EU and Russia to serve as mediators in settling the stalemate, adding: "the continuing neutrality of our strategic partners is not promoting the settlement of the political conflict but is only adding confidence to the President in his illegal actions." (Note: The U.S., Russia, and sometimes EU are generally referred to as strategic partners by Ukrainian politicians.)

¶6. (SBU) The Russian Foreign Ministry immediately issued a statement expressing the willingness of the Russian Government to assist Ukraine in resolving the stand-off. In contrast, European Commissioner for External Relations Ferrero-Waldner said that the EU should not mediate, as long as Ukraine is working through internal political issues within a democratic framework.

#### DPM Kluyev: Broad Coalition is Only Solution

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¶7. (C) Deputy Prime Minister Kluyev--an influential figure in Regions who has been an occasional channel to leading opposition figures--told Ambassador May 10 that there will be no change in the political balance inside the Rada after elections--Regions, BYuT, and OU will all do about the same. The only way to effect a change in the political situation, he argued, would be for a Regions/OU coalition without new elections. In the past, he had opposed such a coalition--OU, in his opinion, had proved to be splintered and inconsistent at the bargaining table--but now Regions wanted a broad coalition. He agreed that there would be costs if a full Rada did not come back into session and that Ukrainian politicians may be missing an opportunity to fix the problems in the constitution. He concluded by saying that Ukraine needed stability for its economy to grow, but this required a coalition that included the President's forces to calm things down.

¶8. (C) On the prospect of new elections, Kluyev claimed Tymoshenko was the only one benefiting from instability. He charged that her plan was for the elections to eliminate the Socialists and Communists, and if she could raise the election threshold (currently set in the Law on Elections as three percent), she would eliminate OU as well. Kluyev doubted there would be any change in the threshold to enter the Rada--for OU to agree to it would be tantamount to political suicide.

¶9. (U) Visit Embassy Kyiv's classified website:  
[www.state.sgov.gov/p/eur/kyiv](http://www.state.sgov.gov/p/eur/kyiv).  
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